

REMARKS

The following Remarks incorporate and supplement the Remarks presented in the Amendment filed on or about November 1, 2006.

Claims 34-37 have been rejected under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement. This rejection is respectfully traversed with respect to these claims as amended herein.

These claims have been amended in consideration of the Examiner's comments and suggestions merely to define the invention more specifically. As amended, these claims ~~and new claims 41 and 42 presented herewith~~ now define the invention that is amply illustrated and described, for example, with reference to Figures 3D, 8A (left-side sequence), 10C and D, and the portions of the Specification at pages 15, line 31 to page 16, line 2 and lines 19-30, page 24, lines 4-11, and page 25, line 31 to page 26, line 4.

In addition, new claim 41 which variously depends from claims 34, 36 is further limited by the recitation of "the surgical tool includes an endoscopic cannula".

This aspect of the claimed invention specifies that a cannula may be used initially to laterally expand the expandable sheath to accommodate insertion of a surgical tool within the expandable sheath while disposed within the passage of tissue dissected thereby, and that an endoscopic cannula may be such a surgical tool.

Also, new independent claim 42 recites “advancing the endoscopic rigid cannula within the expandable sheath under endoscopic visualization to form a passage of dissected tissue between the incision and the pericardium in response to the endoscopic cannula passing through the expandable sheath in a direction toward a distal end thereof to form a working cavity in dilated tissue along the passage”.

This aspect of the claimed invention specifies that the expandable sheath, inserted within an incision, may be expanded by inserting and passing an endoscopic cannula in a distal direction therethrough to expand the sheath and thereby dilate tissue to form a working cavity.

These aspects of the claimed invention are not disclosed or suggested by the references previously cited, considered either alone or in combination.

Specifically, Chin et al ‘477 discloses penetrating tissue between the ribcage and the diaphragm using unprotected forceps and scalpel that expose neighboring tissue to unintended damage.

And, Kieturakis ‘183 might be considered to disclose a surgical dissection including an expandable sheath through which a fiber-optic device (non-rigid) provides visualization. However, there is no teaching or reasonable suggestion found in this reference or in Chin et al ‘477 for retaining an expandable sheath within a cavity through dissected tissue as a pathway for insertion of surgical tools, in any manner resembling Applicant’s claimed invention.

Further, Hildwein et al '156 is understood merely to install a trocar or surgical port through intercostal tissue, and thus provides no teaching or motivation or incentive, either alone or in combination with Chin et al '477 or Kieturakis '183, to position an expandable sheath in tissue to form a dilated passage or cavity therethrough in response to inserting a rigid endoscopic cannula in a distal direction to expand the sheath and additionally provide a pathway for insertion of surgical tools.

These aspects of the claimed invention are amply supported by the original specification, for examples, at Figures 3D, 8A, 10C or 10D and at page 15, line 31 to page 16, lines 2, 19-30, and at page 24, lines 4-11, and at page 25, line 31 to page 26, line 4.

It is therefore respectfully submitted that amended claims 34-37, and new claims 41 and 42 now adequately define the invention as amply illustrated and described in the application as originally filed, and that these claims are now patentable to Applicant.

Favorable consideration is solicited.

Respectfully submitted,
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